

DAE

PTO/SB/64 (07-05)

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)

3184.PALM.PSI

First named inventor: Eric Michael Lunsford, et al.

Application No.: 09/613,028

Art Unit: 2673

Filed: July 10, 2000

Examiner: Amare Mengistu

Title: VARIABLE TEMPLATE INPUT AREA FOR A DATA INPUT DEVICE OF A HANDHELD ELECTRONIC SYSTEM

Attention: Office of Petitions

Mail Stop Petition

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

FAX (571) 273-8300

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

☐ Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$ 1,500.00 (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of Amendment (identify type of reply):

☐ has been filed previously on _____.

☒ is enclosed herewith.

08/16/2006 TBESHAH1 00000051 503102 09613028

B. The issue fee and publication fee (if applicable) of \$ 01 FC:1453 1500.00 DA

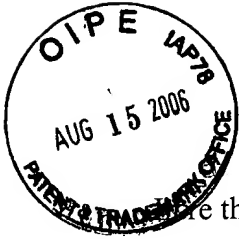
☐ has been paid previously on _____.

☐ is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re the Application of:

**Eric Michael LUNSFORD,
et al.**

Serial No.: 09/613,028

Filed: July 10, 2000

For: VARIABLE TEMPLATE INPUT
AREA FOR A DATA INPUT DEVICE
OF A HANDHELD ELECTRONIC
SYSTEM

) **Customer No.:** 49,637
)
) **Group Art Unit:** 2673
)
) **Examiner:** Amare Mengistu
)
) **Office Action dated:**
) July 10, 2005

Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION AND STATEMENT FOR REVIVAL UNDER 37 C.F.R. §1.137(b)

Dear Sir:

Applicant hereby petitions under 37 C.F.R. §1.137(b) to revive the subject patent application which was unintentionally abandoned as stated by a Notice, dated July 26, 2005 indicating Applicant's failure to timely file a reply to the Office Action dated January 10, 2005. The circumstances of the unintentional abandonment are set forth below.

The final office action for this matter (dated January 10, 2005), sent by the U.S. Patent & Trademark Office to the prior firm responsible for handling this matter, that is, Wagner, Murabito & Hao LLP. Subsequently, Wagner et al., apparently forwarded the final action to our firm for response. The paralegal at Berry & Associates P.C., Kevin Winstead, who was responsible for receiving and routing all communications from the U.S. Patent & Trademark

CERTIFICATE OF MAILING UNDER 37 CFR 1.8

I hereby certify that this document (along with any referred to as being attached or enclosed) is being deposited with the United States Postal Service on the date shown below with sufficient postage as First Class mail in an envelope addressed to the Office of Petitions, Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

July 20, 2006
Date

/Reena Kuyper/
Reena Kuyper, Reg. No. 33,830

Office to the docketing personnel at Berry & Associates P.C., inadvertently overlooked the final office action and apparently misplaced it, thereby not following our docketing protocol. Our docketing supervisor, Ms. Laura Harmon, was not aware of the final office action and therefore, did not docket the response dates. Ms. Harmon was trained by CPI to perform the requisite docketing tasks and had attended an independently-provided offsite course on patent procedures and docketing. It was only some time after Mr. Winstead was terminated on August 19, 2005, for incompetence, that the final office action was discovered in his office under other neglected matters, by our docketing clerk Ms. Serenna McCloud. Because Ms. Harmon has since left, we are providing a declaration from our docketing clerk, Ms. Serenna McCloud, wherein she attests to the reasons why the undersigned nor any other attorney at Berry & Associates P.C., was able to respond to the final office action.

A notice of abandonment was received on July 28, 2005. A revival of this application is respectfully requested because to the assignee, the oversight was unintentional and resulted from a transition in the assignee's counsel (from Wagner et al. to Berry & Associates P.C.) and an incompetent employee at the present firm. Applicant submits the substantive response with this request for immediate revival.

Statement by:

Dated: July 20, 2006
9255 Sunset Blvd., Suite 810
Los Angeles, CA 90069
(310) 247-2860

By: /Reena Kuyper/
Reena Kuyper, Registration No. 33,830

Respectfully submitted,

Dated: July 20, 2006
9220 Sunset Blvd., Suite 315
Los Angeles, CA 90069
(310) 247-8191

By: /Reena Kuyper/
Reena Kuyper, Registration No. 33,830



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

I am the Application of:

**Eric Michael LUNSFORD,
et al.**

Serial No.: 09/613,028

Filed: July 10, 2000

For: VARIABLE TEMPLATE INPUT
AREA FOR A DATA INPUT DEVICE
OF A HANDHELD ELECTRONIC
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) **Customer No.:** 49,637
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) **Group Art Unit:** 2673
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Alexandria, VA 22313-1450

**STATEMENT BY EMPLOYEE AT BERRY & ASSOCIATES P.C. ATTESTING TO
FACTS SURROUNDING ABANDONMENT OF APPLICATION**

Dear Sir:

1. My name is Serenna McCloud and I was a docketing clerk with Berry & Associates P.C. in the year 2005.
2. I worked under the supervision of Ms. Laura Harmon, the docketing supervisor who is no longer with the firm and performed docketing tasks. The docketing protocol at our firm is very stringent requiring the appropriate personnel that is responsible for a particular client, to receive, stamp, and route communications from the Patent Office to the docketing supervisor.

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July 20, 2006
Date

/Reena Kuyper/
Reena Kuyper

3. If the docketing supervisor did not receive a particular communication from the Patent Office, there would be no way for the docketing personnel to docket response dates for the communication and to ensure that the responsible practitioner responds in a timely manner. Once response dates are docketed, repeated reminders are provided until a response is timely filed with the U.S. Patent & Trademark Office.

4. Mr. Kevin Winstead was the paralegal responsible for receiving all communication from the Patent Office as well as other sources that related to PalmSource. Mr. Kevin Winstead, apparently received the final office action at issue, however, failed to route it through the proper channels to the docketing department for docketing.

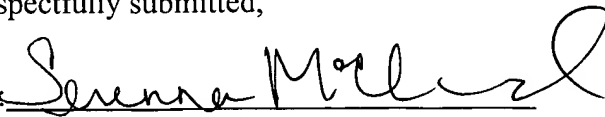
5. I discovered this oversight after August 19, 2005, upon being assigned the task of perusing through all the papers in Mr. Winstead's office, after his departure from the firm, which was as a result of his termination.

6. Since discovery of the final office action, we received a notice of abandonment on July 28, 2005, which indicated that no action was received and that the case stands abandoned.

Applicant was not made aware of the Patent Office's Office Action dated January 10, 2005, until the Notice of Abandonment dated July 26, 2005 was received on July 28, 2005. Apparently, a docketing error occurred on the Applicant's behalf and a response was unintentionally not filed within the time period prescribed by the Patent Office. Applicant has now prepared the required substantive response and this petition. Applicant respectfully requests that this application be immediately revived and the substantive response be considered.

I declare that all statements made herein of my knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under 18 U.S.C. Section 1001, and that such willful false statements may jeopardize the validity of the patent.

Respectfully submitted,

By: 
Serenna McCloud

Dated: July 20, 2006
9255 Sunset Blvd., Suite 810
Los Angeles, CA 90069
(310) 247-2860